

07 JAN 2008



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6731

In re Application of	:	
STEIFEL	:	
Application No.: 10/575,419	:	DECISION ON
PCT No.: PCT/EP2004/011978	:	
Int. Filing Date: 22 October 2004	:	PETITION
Priority Date: 22 October 2003	:	
Attorney Docket No.: 251507	:	
For: COMBINED PREPARATION FOR	:	
TREATING SEPSIS	:	

This decision is in response to the "PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a)" filed 12 December 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 22 October 2004, applicant filed international application PCT/EP2004/011978, which designated the U.S. and claimed a priority date of 22 October 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 06 May 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 24 April 2006 (22 April 2006 being a Saturday).

On 10 April 2006, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage under 35 U.S.C. 371 accompanied by, *inter alia*, the U.S. Basic National Fee.

On 29 December 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that a declaration of inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) were required. The NOTIFICATION OF MISSING REQUIREMENTS set a two-month extendable time period.

On 04 December 2007, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (PCT/DO/EO/909) indicating that the application was abandoned for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 29 December 2006 within the time period set therein.

On 12 December 2007, applicant filed the instant "PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a)".

DISCUSSION

The petition filed 12 December 2007 requests that the copies of the declaration accompanying the petition be accepted as having been received on 10 January 2007 pursuant to 37 CFR 1.8(b).

37 CFR 1.8(b) states

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Items (1)-(3) have been satisfied. Therefore, the declaration received on 12 December 2007 may properly be accepted as originally received in the USPTO on 10 January 2007. Accordingly, the NOTIFICATION OF ABANDONMENT mailed 04 December 2007 is hereby VACATED.

DECISION

For the reasons set forth above, the petition under 37 CFR 1.181 is GRANTED.

For the reasons set forth above, the NOTIFICATION OF ABANDONMENT mailed 04 December 2007 is hereby VACATED.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459